

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

OCT 27 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0184-PR
)	DEPARTMENT A
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
STEVEN ALLEN BRUNI,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR02082

Honorable Kyle Bryson, Judge

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Steven A. Bruni

Florence
In Propria Persona

HOWARD, Chief Judge.

¶1 Petitioner Steven Bruni seeks review of the trial court's order entered on May 19, 2010, summarily dismissing his latest notice of post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb the court's ruling unless it clearly has abused its discretion. *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007).

¶2 In 1980, Bruni was convicted of fourteen felonies arising from various acts of kidnapping, aggravated assault, and sexual assault he committed in October 1979 against three different victims. He was sentenced to prison for fifty-six years. After this court affirmed his convictions and all but two of his sentences on appeal, *State v. Bruni*, 129 Ariz. 312, 320, 630 P.2d 1044, 1052 (App. 1981), he was resentenced on two of the counts in October 1981. In 1983, we consolidated his appeal from his resentencing with his petition for review from the trial court's denial of his first petition for post-conviction relief, affirmed the two reimposed sentences, and upheld the denial of post-conviction relief. *State v. Bruni*, Nos. 2 CA-CR 2523-2, 2 CA-CR 2993-3PR (consolidated) (memorandum decision filed Sept. 6, 1983).

¶3 As detailed in the trial court's latest ruling, between May 1995 and April 2010, Bruni subsequently filed four more notices of post-conviction relief, one of which the court treated as his second petition; a third unsuccessful petition for post-conviction relief, filed in April 2008; and a motion for relief from judgment, filed in April 2010, which the court similarly treated as a Rule 32 petition and summarily dismissed. Bruni sought review of the court's dismissal of the third petition, and we upheld its

determination that his claims were all precluded. *State v. Bruni*, No. 2 CA-CR 2008-0257-PR (memorandum decision filed Jan. 28, 2009).

¶4 On May 10, 2010, Bruni filed his sixth notice of post-conviction relief, in which he attempted to cast as newly discovered evidence his asserted discovery in 2008 that his sentences had been enhanced improperly and imposed illegally. But claims of an illegal sentence are not exempt from the preclusive effect of Rule 32.2(b), *see State v. Shrum*, 220 Ariz. 115, ¶¶ 6-7, 23, 203 P.3d 1175, 1177, 1180 (2009) (holding illegal-sentence claim precluded); *Swoopes*, 216 Ariz. 390, ¶ 42, 166 P.3d at 958 (fundamental error not excepted from preclusion), and the trial court correctly ruled Bruni's latest claim precluded.

¶5 Rule 32.2(b) expressly authorizes the summary dismissal of Bruni's notice, and the court did not abuse its discretion. Therefore, although we grant the petition for review, we deny relief.

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ J. William Brammer, Jr.

J. WILLIAM BRAMMER, JR., Presiding Judge

/s/ Philip G. Espinosa

PHILIP G. ESPINOSA, Judge